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22 and BANK OF AMERICA CORPORATION

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

18 RHONIQUE GREEN and OLIVIA  
19 GIDDINGS, individually and on behalf  
20 of all others similarly situated,

21 Plaintiffs,

22 vs.

23 BANK OF AMERICA, NATIONAL  
24 ASSOCIATION, BANK OF  
25 AMERICA CORPORATION, and  
26 DOES 1 through 50, inclusive,

27 Defendants.

CASE NO. 11-CV-04571-PA-AGR

**STIPULATED PROTECTIVE  
ORDER**

1           **IT IS HEREBY STIPULATED** by and between Plaintiffs Rhonique Green  
2 and Olivia Giddings and Defendants Bank of America, N.A. and Bank of America  
3 Corporation (“the Parties”), by and through their respective counsel of record, that  
4 in order to facilitate the exchange of information and documents which may be  
5 subject to confidentiality limitations on disclosure due to federal laws, state laws,  
6 and privacy rights, and in order to secure the entry of a protective order limiting the  
7 review, copying, dissemination and filing of confidential and/or proprietary  
8 documents and information to be produced by the Parties and their respective  
9 counsel or by any non-party in the course of discovery in this matter to the extent set  
10 forth below, the Parties, by, between and among their respective counsel, stipulate  
11 as follows:

12 1.     PURPOSES AND LIMITATIONS

13           Disclosure and discovery activity in this action are likely to involve production  
14 of confidential, proprietary, or private information for which special protection from  
15 public disclosure and from use for any purpose other than prosecuting this litigation  
16 may be warranted. Accordingly, the parties hereby stipulate to and petition the Court  
17 to enter the following Stipulated Protective Order. The parties acknowledge that this  
18 Order does not confer blanket protections on all disclosures or responses to discovery  
19 and that the protection it affords from public disclosure and use extends only to the  
20 limited information or items that are entitled to confidential treatment under the  
21 applicable legal principles. The parties further acknowledge, as set forth in Section  
22 12.3, below, that this Stipulated Protective Order does not entitle them to file  
23 confidential information under seal; Civil Local Rule 79-5 set forth the procedures  
24 that must be followed and the standards that will be applied when a party seeks  
25 permission from the Court to file material under seal.

1     2.     DEFINITIONS

2             2.1     Challenging Party: a Party or Non-Party that challenges the designation  
3 of information or items under this Order.

4             2.2     “CONFIDENTIAL” Information or Items: information (regardless of  
5 how it is generated, stored or maintained) or tangible things that qualify for protection  
6 under Federal Rule of Civil Procedure 26(c).

7             2.3     Counsel (without qualifier): Outside Counsel of Record and House  
8 Counsel (as well as their support staff).

9             2.4     Designating Party: a Party or Non-Party that designates information or  
10 items that it produces in disclosures or in responses to discovery as  
11 “CONFIDENTIAL.”

12            2.5     Disclosure or Discovery Material: all items or information, regardless of  
13 the medium or manner in which it is generated, stored, or maintained (including,  
14 among other things, testimony, transcripts, and tangible things), that are produced or  
15 generated in disclosures or responses to discovery in this matter.

16            2.6     Expert: a person with specialized knowledge or experience in a matter  
17 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
18 expert witness or as a consultant in this action.

19            2.7     House Counsel: attorneys who are employees of a party to this action.  
20 House Counsel does not include Outside Counsel of Record or any other outside  
21 counsel.

22            2.8     Non-Party: any natural person, partnership, corporation, association, or  
23 other legal entity not named as a Party to this action.

24            2.9     Outside Counsel of Record: attorneys who are not employees of a party  
25 to this action but are retained to represent or advise a party to this action and have  
26 appeared in this action on behalf of that party or are affiliated with a law firm which  
27 has appeared on behalf of that party.

1        2.10 Party: any party to this action, including all of its officers, directors,  
2 employees, consultants, retained experts, and Outside Counsel of Record (and their  
3 support staffs).

4        2.11 Producing Party: a Party or Non-Party that produces Disclosure or  
5 Discovery Material in this action.

6        2.12 Professional Vendors: persons or entities that provide litigation support  
7 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
8 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
9 and their employees and subcontractors.

10       2.13 Protected Material: any Disclosure or Discovery Material that is  
11 designated as “CONFIDENTIAL.”

12       2.14 Receiving Party: a Party that receives Disclosure or Discovery Material  
13 from a Producing Party.

14       3. SCOPE

15       The protections conferred by this Stipulation and Order cover not only  
16 Protected Material (as defined above), but also (1) any information copied or extracted  
17 from Protected Material; (2) all copies, excerpts, summaries, or compilations of  
18 Protected Material; and (3) any testimony, conversations, or presentations by Parties  
19 or their Counsel that might reveal Protected Material. However, the protections  
20 conferred by this Stipulation and Order do not cover the following information: (a)  
21 any information that is in the public domain at the time of disclosure to a Receiving  
22 Party or becomes part of the public domain after its disclosure to a Receiving Party as  
23 a result of publication not involving a violation of this Order, including becoming part  
24 of the public record through trial or otherwise; and (b) any information known to the  
25 Receiving Party prior to the disclosure or obtained by the Receiving Party after the  
26 disclosure from a source who obtained the information lawfully and under no  
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1 obligation of confidentiality to the Designating Party. Any use of Protected Material  
2 at trial shall be governed by a separate agreement or order.

3 4. DURATION

4 Even after final disposition of this litigation, the confidentiality obligations  
5 imposed by this Order shall remain in effect until a Designating Party agrees  
6 otherwise in writing or a court order otherwise directs. Final disposition shall be  
7 deemed to be the later of (1) dismissal of all claims and defenses in this action, with or  
8 without prejudice; and (2) final judgment herein after the completion and exhaustion  
9 of all appeals, rehearings, remands, trials, or reviews of this action, including the time  
10 limits for filing any motions or applications for extension of time pursuant to  
11 applicable law.

12 5. DESIGNATING PROTECTED MATERIAL

13 5.1 Exercise of Restraint and Care in Designating Material for Protection.

14 Each Party or Non-Party that designates information or items for protection under this  
15 Order must take care to limit any such designation to specific material that qualifies  
16 under the appropriate standards. The Designating Party must designate for protection  
17 only those parts of material, documents, items, or oral or written communications that  
18 qualify – so that other portions of the material, documents, items, or communications  
19 for which protection is not warranted are not swept unjustifiably within the ambit of  
20 this Order.

21 If it comes to a Designating Party's attention that information or items that it  
22 designated for protection do not qualify for protection, that Designating Party must  
23 promptly notify all other Parties that it is withdrawing the mistaken designation.

24 5.2 Manner and Timing of Designations. Except as otherwise provided in  
25 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
26 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
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1 under this Order must be clearly so designated before the material is disclosed or  
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic  
5 documents, but excluding transcripts of depositions or other pretrial or trial  
6 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" to each  
7 page that contains protected material. If only a portion or portions of the material on a  
8 page qualifies for protection, the Producing Party also must clearly identify the  
9 protected portion(s) (e.g., by making appropriate markings in the margins). A Party or  
10 Non-Party that makes original documents or materials available for inspection need  
11 not designate them for protection until after the inspecting Party has indicated which  
12 material it would like copied and produced. During the inspection and before the  
13 designation, all of the material made available for inspection shall be deemed  
14 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
15 copied and produced, the Producing Party must determine which documents, or  
16 portions thereof, qualify for protection under this Order. Then, before producing the  
17 specified documents, the Producing Party must affix the "CONFIDENTIAL" legend  
18 to each page that contains Protected Material. If only a portion or portions of the  
19 material on a page qualifies for protection, the Producing Party also must clearly  
20 identify the protected portion(s) (e.g., by making appropriate markings in the  
21 margins).

22 (b) for testimony given in deposition or in other pretrial or trial  
23 proceedings, that the Designating Party identify on the record, before the close of the  
24 deposition, hearing, or other proceeding, all protected testimony.

25 (c) for information produced in some form other than documentary and  
26 for any other tangible items, that the Producing Party affix in a prominent place on the  
27 exterior of the container or containers in which the information or item is stored the  
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1 legend “CONFIDENTIAL.” If only a portion or portions of the information or item  
2 warrant protection, the Producing Party, to the extent practicable, shall identify the  
3 protected portion(s).

4       5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
5 failure to designate qualified information or items does not, standing alone, waive the  
6 Designating Party’s right to secure protection under this Order for such material.  
7 Upon timely correction of a designation, the Receiving Party must make reasonable  
8 efforts to assure that the material is treated in accordance with the provisions of this  
9 Order.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11       6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
12 designation of confidentiality at any time. Unless a prompt challenge to a Designating  
13 Party’s confidentiality designation is necessary to avoid foreseeable, substantial  
14 unfairness, unnecessary economic burdens, or a significant disruption or delay of the  
15 litigation, a Party does not waive its right to challenge a confidentiality designation by  
16 electing not to mount a challenge promptly after the original designation is disclosed.

17       6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
18 resolution process by providing written notice of each designation it is challenging  
19 and describing the basis for each challenge. To avoid ambiguity as to whether a  
20 challenge has been made, the written notice must recite that the challenge to  
21 confidentiality is being made in accordance with this specific paragraph of the  
22 Protective Order. The parties shall attempt to resolve each challenge in good faith and  
23 must begin the process by conferring directly (in voice to voice dialogue; other forms  
24 of communication are not sufficient) within 14 days of the date of service of notice. In  
25 conferring, the Challenging Party must explain the basis for its belief that the  
26 confidentiality designation was not proper and must give the Designating Party an  
27 opportunity to review the designated material, to reconsider the circumstances, and, if  
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1 no change in designation is offered, to explain the basis for the chosen designation. A  
2 Challenging Party may proceed to the next stage of the challenge process only if it has  
3 engaged in this meet and confer process first or establishes that the Designating Party  
4 is unwilling to participate in the meet and confer process in a timely manner.

5       6.3 Judicial Intervention. If the Parties cannot resolve a challenge without  
6 court intervention, the Designating Party shall file and serve a motion to retain  
7 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-  
8 5, if applicable) within 21 days of the initial notice of challenge or within 14 days of  
9 the parties agreeing that the meet and confer process will not resolve their dispute,  
10 whichever is earlier. Each such motion must be accompanied by a competent  
11 declaration affirming that the movant has complied with the meet and confer  
12 requirements imposed in the preceding paragraph. Failure by the Designating Party to  
13 make such a motion including the required declaration within 21 days (or 14 days, if  
14 applicable) shall automatically waive the confidentiality designation for each  
15 challenged designation. In addition, the Challenging Party may file a motion  
16 challenging a confidentiality designation at any time if there is good cause for doing  
17 so, including a challenge to the designation of a deposition transcript or any portions  
18 thereof. Any motion brought pursuant to this provision must be accompanied by a  
19 competent declaration affirming that the movant has complied with the meet and  
20 confer requirements imposed by the preceding paragraph.

21       The burden of persuasion in any such challenge proceeding shall be on the  
22 Designating Party. Frivolous challenges, and those made for an improper purpose  
23 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
24 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
25 the confidentiality designation by failing to file a motion to retain confidentiality as  
26 described above, all parties shall continue to afford the material in question the level  
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1 of protection to which it is entitled under the Producing Party's designation until the  
2 Court rules on the challenge.

### 3 7. ACCESS TO AND USE OF PROTECTED MATERIAL

4       7.1 Basic Principles. A Receiving Party may use Protected Material that is  
5 disclosed or produced by another Party or by a Non-Party in connection with this case  
6 only for prosecuting, defending, or attempting to settle this litigation. Such Protected  
7 Material may be disclosed only to the categories of persons and under the conditions  
8 described in this Order. When the litigation has been terminated, a Receiving Party  
9 must comply with the provisions of section 13 below (FINAL DISPOSITION).

10       Protected Material must be stored and maintained by a Receiving Party at a  
11 location and in a secure manner that ensures that access is limited to the persons  
12 authorized under this Order.

13       7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
14 otherwise ordered by the Court or permitted in writing by the Designating Party, a  
15 Receiving Party may disclose any information or item designated "CONFIDENTIAL"  
16 only to:

17               (a) the Receiving Party's Outside Counsel of Record in this action, as  
18 well as employees of said Outside Counsel of Record to whom it is reasonably  
19 necessary to disclose the information for this litigation and who have signed the  
20 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

21               (b) the officers, directors, and employees (including House Counsel) of  
22 the Receiving Party to whom disclosure is reasonably necessary for this litigation and  
23 who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

24               (c) Experts (as defined in this Order) of the Receiving Party to whom  
25 disclosure is reasonably necessary for this litigation and who have signed the  
26 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27               (d) the court and its personnel;

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(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

#### 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this

1 action as “CONFIDENTIAL” before a determination by the court from which the  
2 subpoena or order issued, unless the Party has obtained the Designating Party’s  
3 permission. The Designating Party shall bear the burden and expense of seeking  
4 protection in that court of its confidential material – and nothing in these provisions  
5 should be construed as authorizing or encouraging a Receiving Party in this action  
6 to disobey a lawful directive from another court.

7 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
8 IN THIS LITIGATION

9 (a) The terms of this Order are applicable to information produced by a  
10 Non-Party in this action and designated as “CONFIDENTIAL.” Such information  
11 produced by Non-Parties in connection with this litigation is protected by the  
12 remedies and relief provided by this Order. Nothing in these provisions should be  
13 construed as prohibiting a Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to  
15 produce a Non-Party’s confidential information in its possession, and the Party is  
16 subject to an agreement with the Non-Party not to produce the Non-Party’s  
17 confidential information, then the Party shall:

18 (1) promptly notify in writing the Requesting Party and the Non-  
19 Party that some or all of the information requested is subject to a confidentiality  
20 agreement with a Non-Party;

21 (2) promptly provide the Non-Party with a copy of the Stipulated  
22 Protective Order in this litigation, the relevant discovery request(s), and a reasonably  
23 specific description of the information requested; and

24 (3) make the information requested available for inspection by the  
25 Non-Party.

26 (c) If the Non-Party fails to object or seek a protective order from this  
27 Court within 14 days of receiving the notice and accompanying information, the  
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1 Receiving Party may produce the Non-Party's confidential information responsive to  
2 the discovery request. If the Non-Party timely seeks a protective order, the Receiving  
3 Party shall not produce any information in its possession or control that is subject to  
4 the confidentiality agreement with the Non-Party before a determination by the Court.  
5 Absent a court order to the contrary, the Non-Party shall bear the burden and expense  
6 of seeking protection in this Court of its Protected Material.

7 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
9 Protected Material to any person or in any circumstance not authorized under this  
10 Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
11 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
12 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
13 persons to whom unauthorized disclosures were made of all the terms of this Order,  
14 and (d) request such person or persons to execute the "Acknowledgment and  
15 Agreement to Be Bound" that is attached hereto as Exhibit A.

16 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
17 **PROTECTED MATERIAL**

18 When a Producing Party gives notice to Receiving Parties that certain  
19 inadvertently produced material is subject to a claim of privilege or other protection,  
20 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
21 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
22 may be established in an e-discovery order that provides for production without  
23 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar  
24 as the parties reach an agreement on the effect of disclosure of a communication or  
25 information covered by the attorney-client privilege or work product protection, the  
26 parties may incorporate their agreement in the stipulated protective order submitted  
27 to the Court.  
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1 12. MISCELLANEOUS

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
3 person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
5 Protective Order no Party waives any right it otherwise would have to object to  
6 disclosing or producing any information or item on any ground not addressed in this  
7 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
8 ground to use in evidence of any of the material covered by this Protective Order.

9 12.3 Filing Protected Material. Without written permission from the  
10 Designating Party or a Court order secured after appropriate notice to all interested  
11 persons, a Party may not file in the public record in this action any Protected Material.  
12 A Party that seeks to file under seal any Protected Material must comply with Civil  
13 Local Rule 79-5. Protected Material may only be filed under seal pursuant to a Court  
14 order authorizing the sealing of the specific Protected Material at issue. Pursuant to  
15 Civil Local Rule 79-5, A sealing order will issue only upon a request establishing that  
16 the Protected Material at issue is privileged, protectable as a trade secret, or otherwise  
17 entitled to protection under the law. If a Receiving Party's request to file Protected  
18 Material under seal pursuant to Civil Local Rule 79-5(d) is denied by the Court, then  
19 the Receiving Party may file the information in the public record pursuant to Civil  
20 Local Rule 79-5(e) unless otherwise instructed by the Court.

21 13. FINAL DISPOSITION

22 Within 60 days after the final disposition of this action, as defined in  
23 paragraph 4, each Receiving Party must return all Protected Material to the  
24 Producing Party or destroy such material. As used in this subdivision, "all Protected  
25 Material" includes all copies, abstracts, compilations, summaries, and any other  
26 format reproducing or capturing any of the Protected Material. Whether the  
27 Protected Material is returned or destroyed, the Receiving Party must submit a  
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1 written certification to the Producing Party (and, if not the same person or entity, to  
 2 the Designating Party) by the 60 day deadline that (1) identifies (by category, where  
 3 appropriate) all the Protected Material that was returned or destroyed and (2) affirms  
 4 that the Receiving Party has not retained any copies, abstracts, compilations,  
 5 summaries or any other format reproducing or capturing any of the Protected  
 6 Material. Notwithstanding this provision, Counsel are entitled to retain an archival  
 7 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal  
 8 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
 9 work product, and consultant and expert work product, even if such materials  
 10 contain Protected Material. Any such archival copies that contain or constitute  
 11 Protected Material remain subject to this Protective Order as set forth in Section 4  
 12 (DURATION).

13  
 14 **IT IS SO STIPULATED.**

15  
 16 DATED: June 8, 2016

By: /s/ Kevin J. McInerney  
 Kevin J. McInerney  
 Attorneys for Plaintiffs RHONIQUE  
 GREEN and OLIVIA GIDDINGS

17  
 18  
 19 DATED: June 8, 2016

**McGUIREWOODS LLP**

20  
 21 By: /s/ Michael D. Mandel  
 Matthew C. Kane, Esq.  
 Michael D. Mandel, Esq.  
 John A. Van Hook, Esq.  
 Brian D. Fahy, Esq.  
 Attorneys for Defendants  
 BANK OF AMERICA, NATIONAL  
 ASSOCIATION, and BANK OF  
 AMERICA CORPORATION

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**ORDER**

**GOOD CAUSE APPEARING**, the Court hereby approves this Stipulated Protective Order.

**IT IS SO ORDERED.**

Dated: June 9, 2016


  
\_\_\_\_\_  
THE HON. PERCY ANDERSON  
UNITED STATES DISTRICT JUDGE



EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty of perjury that  
I have read in its entirety and understand the Stipulated Protective Order that was  
issued by United States District Court for the Central District of California on [date]  
in the case of *Rhonique Green, et al. v. Bank of America, N.A.*, Case No.: 11-CV-  
04571-PA-AGR. I agree to comply with and to be bound by all the terms of this  
Stipulated Protective Order and I understand and acknowledge that failure to so  
comply could expose me to sanctions and punishment in the nature of contempt. I  
solemnly promise that I will not disclose in any manner any information or item that is  
subject to this Stipulated Protective Order to any person or entity except in strict  
compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court  
for the Central District of California for the purpose of enforcing the terms of this  
Stipulated Protective Order, even if such enforcement proceedings occur after  
termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_